

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
PLANNING & DEVELOPMENT REVIEW

**AND WHEN RECORDED MAIL TO**  
PERMIT INTAKE  
MAIL STATION 501

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED RESIDENTIAL DEVELOPMENT PERMIT NO. 99-0849  
**AVALON AT SCRIPPS RANCH**  
CITY COUNCIL

This Permit, is granted by the CITY COUNCIL of the City of San Diego to AVALON BAY COMMUNITIES, a California Corporation, Owner/Permittee pursuant to Sections 101.0901 and 111.0510 of the Municipal Code of the City of San Diego. The 19.5 acre site is located on the south side of Hoyt park Drive between Scripps Ranch Boulevard and Meanley Drive in the M-IP (proposed R-1500) zone of the Scripps Miramar Ranch Community Plan. The project site is legally described as Lots 6-8, Scripps Ranch Business Park Phase III, Map No. 12130.

Subject to the terms and conditions set forth in this permit, permission is granted to Owner and Permittee to construct 378 apartments in 2- and 3-story structures on three lots totaling 19.5 acres, described as, and identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated October 17, 2000, on file in the Planning and Development Review Department. The facility shall include:

- a. 378 apartment units ranging in size from 719 to 1344 square feet, within 28 structures 2- and 3-stories in height and containing a portion of the required parking in ground level garages;
- b. Landscaping (planting, irrigation and landscape related improvements); and
- c. Off-street parking facilities within a portion of the ground level of the dwelling unit structures, detached one-story garage structures and open parking lots and bays; and
- d. A primary and secondary recreation building/center with swimming pool and spas, a pedestrian pathway system linking both development pad levels and to the adjacent community for library and school access routes, passive landscaped areas and security fencing.
- e. Accessory improvements determined by the City Manager to be consistent with the

land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal Code in effect for this site.

1. Construction, grading or demolition must commence and be pursued in a diligent manner within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this permit be conducted on the premises until:
  - a. The Permittee signs and returns the Permit to the Planning and Development Review Department; and
  - b. The Permit is recorded in the office of the San Diego County Recorder.
3. Unless this permit has been revoked by the City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
4. This permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
5. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
6. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and/or site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial

conformity to Exhibit "A," dated October 17, 2000, on file in the Planning and Development Review Department. No change, modifications or alterations shall be made unless appropriate applications or amendment of this permit shall have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this Permit. It is the intent of the City that the Owner of the property which is the subject of this Permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this Permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new Permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed Permit and the condition(s) contained therein.

10. Rezoning of the subject property shall become effective prior to the issuance of any development permits for the project site.

11. This permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase (per the approved Exhibits "A," dated October 17, 2000, on file in the Planning and Development Review Department).

#### **ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

12. The applicant shall comply with the Mitigation Monitoring and Reporting Program (MMRP) as specified in Mitigated Negative Declaration, LDR No. 99-0189 satisfactory to the City Manager or City Engineer. Prior to the issuance of the first applicable grading and or building permit, all mitigation measures as specifically outlined in the MMRP shall be implemented in the following areas: land use (parks), biological resources, noise, hydrology/water quality, transportation and public services (education).

#### **ENGINEERING REQUIREMENTS:**

13. Prior to the issuance of any building permits, the applicant shall obtain a bonded grading permit from the City Engineer (referred to as an "engineering permit") for the grading proposed for this project. All grading shall conform to the requirements of the City of San Diego Municipal

Code in a manner satisfactory to the City Engineer.

14. Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within 90 days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code 66020.

15. The drainage system proposed for this development, as shown on the site plan, is subject to approval by the City Engineer.

16. Prior to the issuance of a grading or building permit the Development of this project shall comply with all requirements of State Water Resources Control Board (SWRCB) Order No. 92-08-DWQ (NPDES General Permit No. CAS000002), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrently with the commencement of grading activities, and a complete and accurate Notice of Intent (NOI) shall be filed with the SWRCB. A copy of the acknowledgment from the SWRCB that an NOI has been received for this project shall be filed with the City of San Diego when received; further, a copy of the completed NOI from the SWRCB showing the permit number for this project shall be filed with the City of San Diego when received.

In addition, the owner(s) and subsequent owner(s) of any portion of the property covered by this grading permit and by SWRCB Order No. 92-08-DWQ, and any subsequent amendments thereto, shall comply with special provisions as set forth in Section C.7 of SWRCB Order No. 92-08-DWQ.

17. The southerly buildings in Lots 7 and 8 are located in an area subject to inundation per Scripps Ranch Business Park Phase III, Map 12130. Prior to the issuance of a building permit, the buildings shall either be removed from the area subject to inundation or amend Map 12130 to adjust the inundation boundary accordingly.

18. Prior to the issuance of a building permit, the building restricted easements that conflict with the proposed buildings, shall be vacated by the City Council, at the fair market value as determined by the Real Estate Assets Department.

19. Prior to the issuance of a building permit, the applicant shall construct and assure by permit and bond, a 30-foot wide driveway on Hoyt Park Dr., a 30 foot wide driveway on Meanly Dr. and a 24-foot wide emergency access driveway on Canyon Lake Dr. and replace the damaged and settled sidewalk adjacent to this site. The applicant shall provide controlled access for the emergency access driveway, and said access shall be constructed in a manner satisfactory to the Fire Department and the City Engineer.

20. Prior to building occupancy, the applicant shall conform to the applicable Section of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or

replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

21. Prior to issuance of any building permits, the applicant shall provide median improvements on Mira Mesa Boulevard from east of I-15 to Scripps Ranch Boulevard. The median improvements shall be designed and constructed to the satisfaction of the City Engineer.

**PLANNING/DESIGN REQUIREMENTS:**

22. No fewer than 726 off-street parking spaces (706 spaces if the applicant shows clearly that the 'loft' areas are not bedrooms) shall be maintained on the property at all times in the approximate locations shown on the approved Exhibits "A," dated October 17, 2000, on file in the Planning and Development Review Department. Of the 726 spaces, 558 shall be provided and designated for resident parking and 168 supplemental spaces shall be provided for guests or unassigned resident use. 20% of the required parking spaces must be located in a common parking area for visitors. Parking spaces shall comply at all times with the Municipal Code and shall not be converted for any other use unless otherwise authorized by the City Manager.

23. In conjunction with condition No. 21, the applicant must demonstrate on plans submitted for building permits, that if the loft areas exceed 70 square feet of area, the 726 parking spaces shall be provided. If the applicant can clearly demonstrate that the loft spaces are designed to preclude their use as a bedroom (i.e. no closets, open/exposed space, etc) to the satisfaction of the City's Plan Checkers, then 706 off-street parking spaces shall be required.

24. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

25. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this permit.

26. A topographical survey conforming to the provisions of the Municipal Code may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this permit or a regulations of the underlying zone. The cost of any such survey shall be borne by the permittee.

27. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the

requested amendment.

28. No building additions, including patio covers, shall be permitted unless approved by the City Manager.

29. All signage associated with this development shall be consistent with sign criteria established by the Municipal Code of the City of San Diego.

30. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.

31. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.

32. No mechanical equipment, tank, duct, elevator enclosure, cooling tower or mechanical ventilator or air conditioner shall be erected, constructed, converted, established, altered, or enlarged on the roof of any building, unless all such equipment and appurtenances are contained within a completely enclosed structure whose top and sides may include grillwork, louvers and latticework.

33. No merchandise, material or equipment shall be stored on the roof of any building.

34. Prior to the issuance of building permits, construction documents shall fully illustrate compliance with the Citywide Storage Standards for Trash and Recyclable Materials of the Municipal Code to the satisfaction of the City Manager. All exterior storage enclosures for trash and recyclable materials shall be located in a manner that is convenient and accessible to all occupants of and service providers to the project, in substantial conformance with the conceptual site plan marked "Exhibit A".

34. The owner/permittee shall disclose to potential residents or occupants, that they will routinely see and hear fixed and rotary-wing aircraft and experience varying degrees of noise and vibration associated with the proximity of the Marine Corps Air Station Miramar.

#### **LANDSCAPE REQUIREMENTS:**

35. Prior to issuance of any construction permits for structures (including shell), complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), shall be submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit 'A', Landscape Concept Plan, dated October 17, 2000, on file in the Planning and Development Review Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

36. Prior to issuance of any Engineering permit, complete landscape construction documents, including plans, details and specifications (including a permanent automatic irrigation system unless otherwise approved), for the purpose for slope revegetation, slope erosion control or public improvements, shall be in accordance with the Landscape Technical Manual Section 7 and submitted to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Concept Plan, dated October 17, 2000, on file in the Planning and Development Review Department. No change, modification or alteration shall be made unless appropriate application or amendment of this Permit shall have been granted.

38. Prior to issuance of any Certificate of Occupancy it shall be the responsibility of the Permittee to install all required landscape and obtain all required landscape inspections and to obtain a No Fee Street Tree Permit for the installation, establishment and on- going maintenance of all street trees. Copies of these approved documents must be submitted to the City Manager.

39. All required landscape shall be maintained in a disease, weed and litter free condition at all times and shall not be modified or altered unless this Permit has been amended. Modification such as severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit. The Permittee, or subsequent Owner shall be responsible for maintaining all street trees and landscape improvements consistent with the standards of the Landscape Technical Manual.

40. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved plans within 30 days of completion of construction by the Permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

41. The timely erosion control, including planting and seeding of all slopes and pads is considered to be in the public interest. Graded pad areas shall be hydroseeded with a non-invasive non-irrigated hydroseed mix in the event that construction of building(s) does(do) not occur within 60 days following grading.

#### **WATER REQUIREMENTS:**

42. Prior to the issuance of any building or grading permits, the developer shall assure, by permit and bond, the design and construction of a redundant system of 10-inch water mains, on-site, connecting to existing water mains in adjacent rights-of-way, in a manner satisfactory to the Water Department Director and the City Engineer.

43. Prior to the issuance of any building permits, the developer shall assure, by permit and bond, the installation of fire hydrants at locations satisfactory to the Fire Department and the City Engineer. If more than two fire hydrants are located on a dead end water main, then the developer shall install appropriate facilities to provide a redundant water supply in a manner satisfactory to the Water Department Director.

44. Prior to the issuance of any building permits, the developer shall grant appropriate easements, a minimum 25-feet-wide, fully paved, over all portions of public water facilities traversing the site, in a manner satisfactory to the Water Department Director.

45. Water meters shall be installed behind curbs. No meters shall be installed within vehicular travel ways.

46. The developer shall provide keyed access to the Water Operations Division for access to on-site public water facilities located within an easement over the gated driveway accessing Canyon Lake Drive, in a manner satisfactory to the Water Department Director. The City will not be held responsible for any issues that may arise relative to the availability of keys.

47. Prior to the approval of any public improvement plans or the issuance of any building permits, the developer shall process encroachment removal agreements for all private encroachments, existing or proposed, located within the general utility easements on-site, in a manner satisfactory to the Water Department Director and the City Engineer.

48. The developer agrees to design and construct all proposed public water facilities, including associated easements, in accordance with established criteria in the most current editions of the City of San Diego Water and Sewer Design Guides.

49. All common areas and/or open spaces that require irrigation shall be irrigated with reclaimed water as specified in City Council Ordinance O-17327. The developer shall design and install a reclaimed water irrigation system within the development in accordance with "Rules and Regulations for Reclaimed Water Use and Distribution within the City of San Diego" satisfactory to the Water Department Director. The system shall be designed to avoid any cross connections between the potable and reclaimed water systems.

APPROVED by the CITY COUNCIL of the City of San Diego on October 17, 2000.